

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5409 SLAB SB 369 - SB 405

1 each of whom shall be a member of the cooperative or of another co-
2 operative which is a member of it. The bylaws shall prescribe the
3 number of directors, their qualifications other than those prescribed
4 in this chapter, and the manner of holding meetings of the board of
5 directors and of electing successors to directors who resign, die, or
6 are otherwise incapable of acting. The bylaws may provide for the
7 removal of directors from office for cause and for the election of
8 their successors. Directors may not receive salaries for the ser-
9 vices as directors and, except in emergencies, shall not receive
10 salaries for their services in any other capacity without the approval
11 of the members. The bylaws may, however, prescribe a fixed fee for
12 each day of attendance at a meeting while officially representing the
13 cooperative [EACH MEETING OF THE BOARD OF DIRECTORS] and may provide
14 for insurance and reimbursement of actual expenses incurred while
15 performing duties as a director [OF ATTENDANCE].

16 * Sec. 9. AS 10.25 is amended by adding a new section to read:

17 Sec. 10.25.145. LIABILITY, INDEMNIFICATION, AND INSURANCE. (a)
18 A protected person is not individually liable for conduct performed
19 within the scope of the person's duties for the cooperative. However,
20 the protected person may be held individually liable for conduct if it
21 was not reasonable for the person to believe that the conduct was in,
22 or not contrary to, the best interests of the cooperative.

23 (b) Unless prohibited by the articles of incorporation or by-
24 laws, the cooperative shall indemnify a protected person who is or may
25 be made a party to a contested matter against expenses actually and
26 reasonably incurred in connection with the contested matter. However,
27 the cooperative may not indemnify the protected person if the person
28 did not reasonably believe the conduct to be in, or not opposed to,
29 the best interests of the cooperative. With respect to a criminal

1 action or proceeding, the cooperative shall indemnify a protected
2 person unless the person had reasonable cause to believe that the
3 conduct was unlawful.

4 (c) A cooperative may purchase and maintain insurance on behalf
5 of a protected person against liability asserted against the protected
6 person and incurred in an official capacity or arising out of the
7 person's status, whether or not the cooperative would have the power
8 to indemnify the person against the liability under this section.

9 (d) In this section

10 (1) "conduct" includes action, inaction, and omission;

11 (2) "contested matter" means a proposed, pending, or com-
12 pleted action or proceeding, whether civil, criminal, administrative,
13 or investigative;

14 (3) "expenses" include attorney fees, judgments, fines, and
15 amounts paid in settlement;

16 (4) "protected person" means a director, officer, employee,
17 or agent of a cooperative.

18 * Sec. 10. AS 10.25.150 is amended to read:

19 Sec. 10.25.150. TERM OF OFFICE OF DIRECTORS. The directors of
20 a cooperative named in articles of incorporation, consolidation,
21 merger, or conversion hold office until the next annual meeting of the
22 members and until their successors are elected and qualify. [AT EACH
23 ANNUAL MEETING, OR IN CASE OF FAILURE TO HOLD THE ANNUAL MEETING AS
24 SPECIFIED IN THE BYLAWS, AT A SPECIAL MEETING CALLED FOR THAT PURPOSE,
25 THE MEMBERS SHALL ELECT DIRECTORS TO HOLD OFFICE UNTIL THE NEXT ANNUAL
26 MEETING OF THE MEMBERS, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER.]
27 Each director elected by the membership holds office for the term for
28 which elected and until a successor is elected and qualifies.

29 * Sec. 11. AS 10.25.160 is amended to read:

1 Sec. 10.25.160. STAGGERED TERMS OF OFFICE FOR DIRECTORS. In-
2 stead of electing all directors annually, the bylaws may provide that
3 directors shall be elected for terms not to exceed three years, or
4 until their successors are elected and qualify, and that the terms of
5 directors shall be staggered so that one-third of the directors, or a
6 number as close to one-third as possible, shall be elected [AT] each
7 year [ANNUAL MEETING].

8 * Sec. 12. AS 10.25.175(a) is amended to read:

9 (a) A meeting of the board of directors may be attended by mem-
10 bers of the cooperative. Except when voice votes are authorized, a
11 vote shall be conducted in such a manner that the members may know the
12 vote of each person entitled to vote. The board of directors may
13 conduct a meeting by teleconference or similar communications equip-
14 ment. This section applies only to a meeting at which a quorum of the
15 board participates.

16 * Sec. 13 AS 10.25.175(c) is amended to read:

17 (c) The following excepted subjects may be discussed in an
18 executive session:

19 (1) matters the immediate knowledge of which would clearly
20 have an adverse effect on the finances of the cooperative;

21 (2) subjects that tend to prejudice the reputation and
22 character of a person, including information concerning a member's
23 financial record; however, the person may request a public discussion;

24 (3) matters discussed with an attorney for the cooperative,
25 the immediate knowledge of which could have an adverse effect on the
26 legal position of the cooperative;

27 (4) labor negotiations and personnel matters;

28 (5) matters specifically exempted from disclosure by law,
29 the articles of incorporation, or the bylaws;

1 (6) bids, trade secrets, or other confidential commercial
2 information;

3 (7) discussion of litigation by or against the cooperative.

4 * Sec. 14. AS 10.25.175(e) is repealed and reenacted to read:

5 (e) A member affected by action taken contrary to this section
6 may bring a suit in the superior court. The court may order appropri-
7 ate equitable relief after considering the circumstances of the case.
8 Action taken contrary to this section is not void if other equitable
9 relief is available and appropriate.

10 * Sec. 15. AS 10.25.235 is amended to read:

11 Sec. 10.25.235. MEMBER'S RIGHT TO EXAMINE BOOKS AND RECORDS. A
12 member of a cooperative may, at a reasonable time and for a proper
13 purpose, examine and make copies of the books and records of the
14 cooperative at the principal office of the cooperative. The coopera-
15 tive may charge a member an amount equal to the actual cost of du-
16 plicating documents requested under this section. The cooperative may
17 withhold books and records concerning subjects that may be discussed
18 in executive session under AS 10.25.175(c).

19 * Sec. 16. AS 10.25.240 is amended to read:

20 Sec. 10.25.240. MERGER. One or more cooperatives, each [HERE-
21 INAFTER] designated in this section as "merging cooperative," may
22 merge into another cooperative, [HEREINAFTER] designated in this
23 section as "surviving cooperative," by complying with the following
24 requirements.

25 (1) The proposition for the merger of the merging coopera-
26 tives into the surviving cooperative and proposed articles of merger
27 shall be submitted to [A MEETING OF] the members of each merging
28 cooperative and of the surviving cooperative. The notice [OF THE
29 MEETING] shall have attached to it a copy of the proposed articles of

1 merger.

2 (2) If the proposed merger and the proposed articles of
3 merger, with any amendments, are approved by the affirmative vote of
4 not less than two-thirds of those members of each cooperative voting
5 on them [AT THE MEETING], articles of merger in the form approved
6 shall be executed and acknowledged on behalf of each cooperative by
7 its president or vice president and its seal shall be affixed by its
8 secretary.

9 * Sec. 17. AS 10.25.260 is amended to read:

10 Sec. 10.25.260. CONSOLIDATION. Two or more cooperatives,
11 [HEREINAFTER] designated in this section as "consolidating coopera-
12 tive," may consolidate into a new cooperative, [HEREINAFTER] designat-
13 ed in this section as the "new cooperative," by complying with the
14 following requirements:

15 (1) The proposition for the consolidation into the new
16 cooperative and proposed articles of consolidation shall be submitted
17 to [A MEETING OF] the members of each consolidating cooperative. The
18 notice [OF THE MEETING] shall have attached to it a copy of the pro-
19 posed articles of consolidation.

20 (2) If the proposed consolidation and the proposed articles
21 of consolidation, with any amendments, are approved by the affirmative
22 vote of not less than two-thirds of those members of each consolida-
23 ting cooperative voting on them, articles of consolidation in the form
24 approved shall be executed and acknowledged on behalf of each consol-
25 idating cooperative by its president or vice president and its seal
26 shall be affixed and attested by its secretary.

27 * Sec. 18. AS 10.25.320 is amended to read:

28 Sec. 10.25.320. DISSOLUTION OF COOPERATIVE THAT [WHICH] HAS
29 COMMENCED BUSINESS. A cooperative that [WHICH] has commenced business

1 may be dissolved in the following manner.

2 (1) The proposition to dissolve shall be submitted to the
3 members of the cooperative [AT AN ANNUAL OR SPECIAL MEETING]. The
4 notice shall state [SET FORTH] the proposition.

5 (2) The [AT THE MEETING THE MEMBERS SHALL APPROVE, BY THE]
6 affirmative vote of not less than two-thirds [A MAJORITY] of all
7 members of the cooperative is required to approve [,] the proposition
8 to dissolve the cooperative.

9 (3) Upon approval, a certificate of election to dissolve,
10 hereafter designated the "certificate," executed and acknowledged on
11 behalf of the cooperative by its president or vice president under its
12 seal, attested by its secretary, shall be submitted to the commission-
13 er for filing together with an affidavit by the officer executing the
14 certificate stating that the statements in the certificate are true.
15 The certificate shall state the name of the cooperative, the address
16 of its principal office, and that the members of the cooperative have
17 voted to dissolve the cooperative.

18 * Sec. 19. AS 10.25.400 is amended to read:

19 Sec. 10.25.400. LIMITATIONS ON DISPOSITION OF ALL THE PROPERTY.
20 A cooperative may not otherwise sell, lease, or dispose of more than
21 15 percent of the cooperative's total assets, less depreciation, as
22 reflected on the books of the cooperative at the time of the trans-
23 action [ALL OR A SUBSTANTIAL PORTION OF ITS PROPERTY] unless the
24 transaction is authorized by the affirmative vote of not less than
25 two-thirds [A MAJORITY] of all the members of the cooperative. How-
26 ever, notwithstanding a provision of this chapter or any other pro-
27 vision of law, the board of directors may, upon the authorization of a
28 majority of those members of the cooperative voting on the issue in an
29 election in which at least 10 percent of the eligible members return

1 ballots [PRESENT AT A MEETING OF THE MEMBERS], sell, lease, or other-
2 wise dispose of all or a substantial portion of its property to another
3 cooperative or to the state [OR TO THE HOLDER OF ITS PROPERTY TO
4 ANOTHER COOPERATIVE OR TO THE HOLDER OF AN EVIDENCE OF INDEBTEDNESS
5 ISSUED TO THE UNITED STATES OF AMERICA OR AN AGENCY OR INSTRUMENTALITY
6 OF IT].

7 * Sec. 20. AS 10.25.400 is amended by adding new subsections to read:

8 (b) Before a vote on authorization for the disposition or sale
9 of more than 15 percent of the total assets of the cooperative, the
10 board of directors shall

11 (1) have the property appraised by three appraisers chosen
12 by the board and not associated with the cooperative or a proposed
13 buyer of cooperative property; the first proposed buyer shall advance
14 to the cooperative money sufficient to pay for the appraisals;

15 (2) notify all cooperative members, at least 90 days in
16 advance, of a vote on disposition of cooperative property; the notice
17 must contain detailed proposals for disposition of the property;

18 (3) at least 90 days before the vote, notify all other
19 cooperatives situated and operating in the state that the property is
20 available for disposition and include with the notice one copy of each
21 appraisal of the property; and

22 (4) at least 30 days before the vote, mail to all members
23 any alternate proposals made by another cooperative, or by cooperative
24 members if an alternate proposal signed by at least 50 members has
25 been submitted to the board, together with any recommendation that the
26 board has made.

27 (c) This section does not apply to the transfer of cooperative
28 property under AS 10.25.240 - 10.25.300.

29 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).

5-1554A
Cramer
1/15/88

CHECKED
R. P. C.
1/20

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to electric and telephone coopera-
7 tives; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10.25.010 is amended to read:

10 Sec. 10.25.010. POWERS OF ELECTRIC OR TELEPHONE COOPERATIVE.

11 An electric or telephone cooperative may

12 (1) sue and be sued in its corporate name;

13 (2) have perpetual existence;

14 (3) adopt a corporate seal and alter it;

15 (4) construct, buy, lease, or otherwise acquire, and equip,
16 maintain, and operate, and sell, assign, convey, lease, mortgage,
17 pledge, or otherwise dispose of or encumber lands, buildings, struc-
18 tures, electric or telephone lines or systems, fuel transportation and
19 production facilities to serve the cooperative's own power-generating
20 facilities, dams, plants and equipment, and any other real or personal
21 property, tangible or intangible, which is necessary, convenient, or
22 appropriate to accomplish the purpose for which the cooperative is
23 organized;

24 (5) buy, lease, or otherwise acquire, and use, and exercise
25 and sell, assign, convey, mortgage, pledge or otherwise dispose of or
26 encumber franchises, rights, privileges, licenses, and easements;

27 (6) borrow money and otherwise contract indebtedness, and
28 issue evidences of indebtedness, and secure the payment of the indebt-
29 edness by mortgage, pledge, or deed of trust of, or any other

1 encumbrance upon its real or personal property, assets, franchises, or
2 revenues;

3 (7) construct, maintain, and operate electric transmission
4 and distribution lines, or telephone lines along, upon, under and
5 across publicly owned lands and public thoroughfares, including,
6 without limitation, all roads, highways, streets, alleys, bridges, and
7 causeways;

8 (8) exercise the power of eminent domain;

9 (9) become a member of other cooperatives or corporations
10 or own stock in them;

11 (10) conduct its business and exercise its powers inside or
12 outside the state;

13 (11) adopt, amend, and repeal bylaws;

14 (12) make all contracts necessary, convenient, or appropri-
15 ate for the full exercise of its powers;

16 (13) make donations for the public welfare or for charita-
17 ble, scientific, or educational purposes;

18 (14) do and perform any other act and thing, and have and
19 exercise any other power which may be necessary, convenient, or appro-
20 priate to accomplish the purpose for which the cooperative is or-
21 ganized.

22 * Sec. 2. AS 10.25.020 is amended to read:

23 Sec. 10.25.020. POWERS OF ELECTRIC COOPERATIVE. An electric
24 cooperative may

25 (1) generate, manufacture, purchase, acquire, accumulate,
26 and transmit electric energy, and distribute, sell, supply, and dis-
27 pose of electric energy to its members, to governmental agencies and
28 political subdivisions, and to other persons not exceeding 10 percent
29 of the number of its members; however, a cooperative that [WHICH]

1 acquires existing electric facilities may continue service to persons,
2 not in excess of 40 percent of the number of its members, who are
3 already receiving service from these facilities without requiring them
4 to become members, and these persons may become members upon the terms
5 as may be prescribed in the bylaws;

6 (2) assist persons to whom electric energy is or will be
7 supplied by the cooperative in wiring their premises and in acquiring
8 and installing electrical and plumbing appliances, equipment, fixtures
9 and apparatus by financing them, and in connection with these services
10 wire or have wired the premises, and buy, acquire, lease, sell, dis-
11 tribute, install, and repair electric and plumbing appliances, equip-
12 ment, fixtures, and apparatus;

13 (3) assist persons to whom electric energy is or will be
14 supplied by the cooperative in constructing, equipping, maintaining,
15 and operating electric cold storage or processing plants by financing
16 them or otherwise;

17 *or existing district meeting*
18 (4) operate a waste heat distribution system.

19 * Sec. 3. AS 10.25.070 is amended to read:

20 Sec. 10.25.070. BYLAWS. The board of directors shall adopt the
21 first bylaws of a cooperative to be adopted following an incorpo-
22 ration, conversion, merger, or consolidation. Thereafter the district
23 delegates in cooperatives having three or more districts that are not
24 connected by a road system to another district of the cooperative may
25 adopt, amend, or repeal the bylaws by the affirmative vote of a major-
26 ity of the district delegates voting on the adoption, amendment, or
27 repeal at a meeting of the district delegates. In all other coopera-
28 tives the members shall adopt, amend, or repeal the bylaws by the
29 affirmative vote of a majority of the members voting on the question
[ADOPTION, AMENDMENT, OR REPEAL EITHER AT A MEETING OF THE MEMBERS OR

1 BY MAIL BALLOT WITHOUT A MEETING]. The bylaws shall set out the
2 rights and duties of members, district delegates, and directors and
3 may contain other provisions for the regulation and management of the
4 affairs of the cooperative consistent with this chapter or with the
5 articles of incorporation of the cooperative.

6 * Sec. 4. AS 10.25.080 is amended to read:

7 Sec. 10.25.080. MEMBERS. (a) Each incorporator of a coopera-
8 tive shall be a member of the cooperative or of another cooperative
9 that is a member of it. A person may not become a member unless that
10 person agrees to use electric energy, or telephone service, or other
11 services furnished by the cooperative when they are made available
12 through its facilities.

13 (b) Membership in a cooperative is not transferrable, except as
14 provided in the bylaws. The bylaws may

15 (1) prescribe additional qualifications and limitations on
16 membership;

17 (2) require membership as a condition of obtaining service
18 from the cooperative;

19 (3) provide for termination or suspension of membership;
20 however, a membership may not be terminated unless procedures for
21 termination are contained in the bylaws.

22 * Sec. 5. AS 10.25.100 is amended to read:

23 Sec. 10.25.100. NOTICE OF MEETINGS. Except as otherwise pro-
24 vided in this chapter, written notice stating the time and place of
25 the annual [EACH] meeting of the members or district delegates [AND,
26 IN THE CASE OF A SPECIAL MEETING, THE PURPOSE OR PURPOSES FOR WHICH
27 THE MEETING IS CALLED,] shall be given to each member or district
28 delegate, either personally or by mail, not less than 20 days nor more
29 than 40 days before the date of the meeting. Notice of a special

1 meeting of the members, together with notice of the purpose for which
2 the meeting is called, shall be given to each member or district
3 delegate, either personally or by mail, not less than 90 days or more
4 than 120 days before the date of the meeting. If mailed, notice is
5 considered given when it is deposited in the United States mail with
6 postage prepaid addressed to the member or district delegate at the
7 address of the member or delegate as it appears on the records of the
8 cooperative.

9 * Sec. 6. AS 10.25.120 is amended to read:

10 Sec. 10.25.120. VOTING. Each member is entitled to one vote on
11 each matter submitted to a vote of the membership [(1) AT A MEETING OF
12 THE MEMBERS OR (2) BY MAIL BALLOT PERMITTED BY AS 10.25.070]. Each
13 member of a district is entitled to one vote on each matter submitted
14 to a vote at a district meeting. A member may not vote by proxy but
15 may vote [VOTING AT A MEETING SHALL BE IN PERSON, BUT], if the bylaws
16 so provide, [MAY ALSO BE] by mail.

17 * Sec. 7. AS 10.25 is amended by adding a new section to read:

18 Sec. 10.25.125. RECORD DATE. To determine the members entitled
19 to notice of a meeting of the members or to vote on a matter that is
20 to be submitted to a vote of the members, or for any other proper
21 purpose, the board of directors may fix in advance a date as the
22 record date for the determination. If a record date is not fixed for
23 the determination of members entitled to notice of a meeting or to
24 vote on a matter, the date on which notice of the meeting or of mail
25 voting is first mailed is the record date. When a determination of
26 members entitled to vote at a meeting is made, the determination
27 applies until the meeting is adjourned sine die.

28 * Sec. 8. AS 10.25.140 is amended to read:

29 Sec. 10.25.140. BOARD OF DIRECTORS. The business of a

1 cooperative shall be managed by a board of not less than five direc-
2 tors, each of whom shall be a member of the cooperative or of another
3 cooperative which is a member of it. The bylaws shall prescribe the
4 number of directors, their qualifications other than those prescribed
5 in this chapter, and the manner of holding meetings of the board of
6 directors and of electing successors to directors who resign, die, or
7 are otherwise incapable of acting. The bylaws may provide for the
8 removal of directors from office for cause and for the election of
9 their successors. Directors may not receive salaries for the ser-
10 vices as directors and, except in emergencies, shall not receive
11 salaries for their services in any other capacity without the approval
12 of the members. The bylaws may, however, prescribe a fixed fee for
13 each day of attendance at a meeting while officially representing the
14 cooperative [EACH MEETING OF THE BOARD OF DIRECTORS] and may provide
15 for insurance and reimbursement of actual expenses incurred while
16 performing duties as a director [OF ATTENDANCE].

17 * Sec. 9. AS 10.25 is amended by adding a new section to read:

18 Sec. 10.25.145. LIABILITY, INDEMNIFICATION, AND INSURANCE. (a)
19 A protected person is not individually liable for conduct performed
20 within the scope of the person's duties for the cooperative. However,
21 the protected person may be held individually liable for conduct if it
22 was not reasonable for the person to believe that the conduct was in,
23 or not contrary to, the best interests of the cooperative.

24 (b) Unless prohibited by the articles of incorporation or by-
25 laws, the cooperative shall indemnify a protected person who is or may
26 be made a party to a contested matter against expenses actually and
27 reasonably incurred in connection with the contested matter. However,
28 the cooperative may not indemnify the protected person if the person
29 did not reasonably believe the conduct to be in, or not opposed to,

1 the best interests of the cooperative. With respect to a criminal
2 action or proceeding, the cooperative shall indemnify a protected
3 person unless the person had reasonable cause to believe that the
4 conduct was unlawful.

5 (c) A cooperative may purchase and maintain insurance on behalf
6 of a protected person against liability asserted against the protected
7 person and incurred in an official capacity or arising out of the
8 person's status, whether or not the cooperative would have the power
9 to indemnify the person against the liability under this section.

10 (d) In this section

11 (1) "conduct" includes action, inaction, and omission;

12 (2) "contested matter" means a proposed, pending, or com-
13 pleted action or proceeding, whether civil, criminal, administrative,
14 or investigative;

15 (3) "expenses" include attorney fees, judgments, fines, and
16 amounts paid in settlement;

17 (4) "protected person" means a director, officer, employee,
18 or agent of a cooperative.

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22 merger, or conversion hold office until the next annual meeting of the
23 members and until their successors are elected and qualify. [AT EACH
24 ANNUAL MEETING, OR IN CASE OF FAILURE TO HOLD THE ANNUAL MEETING AS
25 SPECIFIED IN THE BYLAWS, AT A SPECIAL MEETING CALLED FOR THAT PURPOSE,
26 THE MEMBERS SHALL ELECT DIRECTORS TO HOLD OFFICE UNTIL THE NEXT ANNUAL
27 MEETING OF THE MEMBERS, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER.]
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29 which elected and until a successor is elected and qualifies.

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3 stead of electing all directors annually, the bylaws may provide that
4 directors shall be elected for terms not to exceed three years, or
5 until their successors are elected and qualify, and that the terms of
6 directors shall be staggered so that one-third of the directors, or a
7 number as close to one-third as possible, shall be elected [AT] each
8 year [ANNUAL MEETING].

9 * Sec. 12. AS 10.25.175(a) is amended to read:

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13 vote of each person entitled to vote. The board of directors may
14 conduct a meeting by teleconference or similar communications equip-
15 ment. This section applies only to a meeting at which a quorum of the
16 board participates.

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19 executive session:

20 (1) matters the immediate knowledge of which would clearly
21 have an adverse effect on the finances of the cooperative;

22 (2) subjects that tend to prejudice the reputation and
23 character of a person, including information concerning a member's
24 financial record; however, the person may request a public discussion;

25 (3) matters discussed with an attorney for the cooperative,
26 the immediate knowledge of which could have an adverse effect on the
27 legal position of the cooperative;

28 (4) labor negotiations and personnel matters;

29 (5) matters specifically exempted from disclosure by law,

1 the articles of incorporation, or the bylaws;

2 (6) bids, trade secrets, or other confidential commercial
3 information;

4 (7) discussion of litigation by or against the cooperative.

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9 Action taken contrary to this section is not void if other equitable
10 relief is available and appropriate.

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13 member of a cooperative may, at a reasonable time and for a proper
14 purpose, examine and make copies of the books and records of the
15 cooperative at the principal office of the cooperative. The coopera-
16 tive may charge a member an amount equal to the actual cost of du-
17 plicating documents requested under this section. The cooperative may
18 withhold books and records concerning subjects that may be discussed
19 in executive session under AS 10.25.175(c).

20 * Sec. 16. AS 10.25.240 is amended to read:

21 Sec. 10.25.240. MERGER. One or more cooperatives, each [HERE-
22 INAFTER] designated in this section as "merging cooperative," may
23 merge into another cooperative, [HEREINAFTER] designated in this
24 section as "surviving cooperative," by complying with the following
25 requirements.

26 (1) The proposition for the merger of the merging coopera-
27 tives into the surviving cooperative and proposed articles of merger
28 shall be submitted to [A MEETING OF] the members of each merging
29 cooperative and of the surviving cooperative. The notice [OF THE

1 MEETING] shall have attached to it a copy of the proposed articles of
2 merger.

3 (2) If the proposed merger and the proposed articles of
4 merger, with any amendments, are approved by the affirmative vote of
5 not less than two-thirds of those members of each cooperative voting
6 on them [AT THE MEETING], articles of merger in the form approved
7 shall be executed and acknowledged on behalf of each cooperative by
8 its president or vice president and its seal shall be affixed by its
9 secretary.

10 * Sec. 17. AS 10.25.245(a) is amended to read:

11 (a) A cooperative organized under [THE PROVISIONS OF] this
12 chapter may merge into a corporation organized under AS 10.05 that

13 (1) is engaged in business as the same type of public
14 utility as the cooperative;

15 (2) [AND] is certificated to provide utility service of the
16 same type as the cooperative; and

17 (3) whose certificated area is contiguous to the area of
18 the cooperative [AS AN ELECTRIC OR TELEPHONE UTILITY].

19 * Sec. 18. AS 10.25.260 is amended to read:

20 Sec. 10.25.260. CONSOLIDATION. Two or more cooperatives,
21 [HEREINAFTER] designated in this section as "consolidating coopera-
22 tive," may consolidate into a new cooperative, [HEREINAFTER] designat-
23 ed in this section as the "new cooperative," by complying with the
24 following requirements:

25 (1) The proposition for the consolidation into the new
26 cooperative and proposed articles of consolidation shall be submitted
27 to [A MEETING OF] the members of each consolidating cooperative. The
28 notice [OF THE MEETING] shall have attached to it a copy of the pro-
29 posed articles of consolidation.

1 (2) If the proposed consolidation and the proposed articles
2 of consolidation, with any amendments, are approved by the affirmative
3 vote of not less than two-thirds of those members of each consolidat-
4 ing cooperative voting on them, articles of consolidation in the form
5 approved shall be executed and acknowledged on behalf of each consol-
6 idating cooperative by its president or vice president and its seal
7 shall be affixed and attested by its secretary.

8 * Sec. 19. AS 10.25.320 is amended to read:

9 Sec. 10.25.320. DISSOLUTION OF COOPERATIVE THAT [WHICH] HAS
10 COMMENCED BUSINESS. A cooperative that [WHICH] has commenced business
11 may be dissolved in the following manner.

12 CAN THIS (1) The proposition to dissolve shall be submitted to the
13 members of the cooperative at an annual or special meeting. The
14 notice shall state [SET FORTH] the proposition.

15 DONE BY (2) At the meeting the members shall approve, by the affir-
16 mative vote of not less than two-thirds [A MAJORITY] of all members of
17 the cooperative, the proposition to dissolve the cooperative.

18 ? (3) Upon approval, a certificate of election to dissolve,
19 hereafter designated the "certificate," executed and acknowledged on
20 behalf of the cooperative by its president or vice president under its
21 seal, attested by its secretary, shall be submitted to the commission-
22 er for filing together with an affidavit by the officer executing the
23 certificate stating that the statements in the certificate are true.
24 The certificate shall state the name of the cooperative, the address
25 of its principal office, and that the members of the cooperative have
26 voted to dissolve the cooperative.

27 * Sec. 20. AS 10.25.400 is amended to read:

28 Sec. 10.25.400. LIMITATIONS ON DISPOSITION OF ALL THE PROPERTY.
29 A cooperative may not otherwise sell, lease, or dispose of more than

1 15 percent of the cooperative's total assets, less depreciation, as
2 reflected on the books of the cooperative at the time of the trans-
3 action [ALL OR A SUBSTANTIAL PORTION OF ITS PROPERTY] unless the
4 transaction is authorized by the affirmative vote of not less than
5 two-thirds [A MAJORITY] of all the members of the cooperative. How-
6 ever, notwithstanding a provision of this chapter or any other pro-
7 vision of law, the board of directors may, upon the authorization of a
8 majority of those members of the cooperative voting on the issue in an
9 election in which at least 10 percent of the eligible members return
10 ballots [PRESENT AT A MEETING OF THE MEMBERS], sell, lease, or other-
11 wise dispose of all or a substantial portion of its property to
12 another cooperative or to the state [OR TO THE HOLDER OF ITS PROPERTY
13 TO ANOTHER COOPERATIVE OR TO THE HOLDER OF AN EVIDENCE OF INDEBTEDNESS
14 ISSUED TO THE UNITED STATES OF AMERICA OR AN AGENCY OR INSTRUMENTALITY
15 OF IT].

16 * Sec. 21. AS 10.25.400 is amended by adding new subsections to read:

17 (b) Before a vote on authorization for the disposition or sale
18 of more than 15 percent of the total assets of the cooperative, the
19 board of directors shall

20 (1) have the property appraised by three appraisers chosen
21 by the board and not associated with the cooperative or a proposed
22 buyer of cooperative property; the first proposed buyer shall advance
23 to the cooperative money sufficient to pay for the appraisals;

24 (2) notify all cooperative members, at least 90 days in
25 advance, of a vote on disposition of cooperative property; the notice
26 must contain detailed proposals for disposition of the property;

27 (3) at least 90 days before the vote, notify all other
28 cooperatives situated and operating in the state that the property is
29 available for disposition and include with the notice one copy of each

1 appraisal of the property; and

2 (4) at least 30 days before the vote, mail to all members
3 any alternate proposals made by another cooperative, or by cooperative
4 members if an alternate proposal signed by at least 50 members has
5 been submitted to the board, together with any recommendation that the
6 board has made.

7 (c) This section does not apply to the transfer of cooperative
8 property under AS 10.25.240 - 10.25.300.

9 * Sec. 22. This Act takes effect immediately under AS 01.10.070(c).
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COMMENTS ON COUNCIL DRAFT OF 10.25 AMENDMENTS

.075 - Pg. Line 1 New language needs to be underlined.

.125 - O.K.

.140 - Use language from January ARECA draft.

.145 - Language in point 4.1 (Fraser memo) needs to be added. Otherwise the redraft is O.K.

.150 - Pg. Line 2 Delete the new language.

.175 (a) Pg. Line 19 Delete "is present and."

.245 - Repeal this section.

.260 - If electric and telephone cooperatives already have this authority to merge with each other, a legal opinion to that effect is sufficient.

.400 (a) Use language from January ARECA draft.

.400 (a) 412. Line 21 Before "proposed buyer" insert "first."

Line 22 Delete "meeting to."

Line 29 Replace "meeting" with "vote."

413. Line 4 Replace "meeting" with "vote."

~~Line 6 Replace "meeting" with "vote."~~

*para 5 report on merger report "are placed at such
proposals on the ballot"*

The effective date of this bill is O.K.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 7, 1988

SUBJECT: Electric and telephone cooperatives
(Work Order No. 5-1554)

TO: Senator Tim Kelly
Chairman, Labor and Commerce Committee

FROM: Teresa B. Cramer *ABC*
Legislative Counsel

Enclosed is the draft bill you requested, amending the Electric and Telephone Cooperative Act. There are several sections in which I have rewritten the ARECA draft language for clarity or to conform to the Manual of Legislative Drafting. There are also some sections in which the intent of the language proposed was not entirely clear to me.

Sec. 10.25.125. In the last sentence, the determination of members applies until the meeting is adjourned sine die. Is this consistent with the intent of the request?

Sec. 10.25.145. This section is substantially rewritten. Please note the definitions in subsection (d) of the draft. There are two points that you may wish to review.

1. I have not incorporated the phrase

a person who is or was serving at the request of the cooperative as a director, officer, employee, or agent of another cooperative corporation, joint venture, trust, or other enterprise

into the definition of "protected person" contained in subsection (d) because the phrase seems to describe an agent of the cooperative. The definition already includes agents and therefore the phrase would be redundant. However, there may be a reason for spelling out this relationship. Let me know if the definition should be re-drafted.

Senator Tim Kelly

Page 2

January 7, 1988

2. In rewriting subsection (b), I have provided that a protected person is entitled to indemnification in criminal matters unless the person had reasonable cause to believe the conduct was unlawful. The language included in the request for the bill appeared to bring about the opposite result.

Sec. 10.25.175(a) and (c) are rewritten. If the changes are not consistent with the intent of your request, please let me know.

Sec. 10.25.260. The draft does not include the first change requested (to add "including electric and telephone cooperatives organized under this Act" as a description of "cooperatives") because the definition of "cooperative" in AS 10.25.640(2), already gives that result.

Sec. 10.25.400(a) changes the vote required to dispose of more than 15 percent of its property from a simple majority to a two-thirds majority. The required majority for disposing of a substantial portion of the cooperative's property to another cooperative or to the state remains a simple majority. Is this consistent with your intent?

Sec. 10.25.400(b)(1) requires a proposed buyer to advance to a cooperative disposing of more than 15 percent of its property money sufficient to pay for the appraisals. Do you wish to address how to determine who pays if there is more than one proposed buyer?

Sec. 10.25.530(c). The ARECA draft did not include the text of this subsection. I have not amended it.

Sec. 10.25.620. The ARECA draft did not include the text of this section. I have not amended it.

Sec. 22. I have added an immediate effective date to the bill after conferring with Mark Johnson of your office. If this is not appropriate, please let me know.

If I may be of further assistance, please advise.

TC:bb
wkb1/021

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to electric and telephone coopera-
7 tives; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 10.25.010 is amended to read:

10 Sec. 10.25.010. POWERS OF ELECTRIC OR TELEPHONE COOPERATIVE.

11 An electric or telephone cooperative may

12 (1) sue and be sued in its corporate name;

13 (2) have perpetual existence;

14 (3) adopt a corporate seal and alter it;

15 (4) construct, buy, lease, or otherwise acquire, and equip,
16 maintain, and operate, and sell, assign, convey, lease, mortgage,
17 pledge, or otherwise dispose of or encumber lands, buildings, struc-
18 tures, electric or telephone lines or systems, fuel transportation and
19 production facilities, dams, plants and equipment, and any other real
20 or personal property, tangible or intangible, which is necessary,
21 convenient, or appropriate to accomplish the purpose for which the
22 cooperative is organized;

23 (5) buy, lease, or otherwise acquire, and use, and exercise
24 and sell, assign, convey, mortgage, pledge or otherwise dispose of or
25 encumber franchises, rights, privileges, licenses, and easements;

26 (6) borrow money and otherwise contract indebtedness, and
27 issue evidences of indebtedness, and secure the payment of the indebt-
28 edness by mortgage, pledge, or deed of trust of, or any other encum-
29 brance upon its real or personal property, assets, franchises, or

1 revenues;

2 (7) construct, maintain, and operate electric transmission
3 and distribution lines, or telephone lines along, upon, under and
4 across publicly owned lands and public thoroughfares, including,
5 without limitation, all roads, highways, streets, alleys, bridges, and
6 causeways;

7 (8) exercise the power of eminent domain;

8 (9) become a member of other cooperatives or corporations
9 or own stock in them, or enter into joint ventures with other coopera-
10 tives, corporations, the state, or political subdivisions of the
11 state;

12 (10) conduct its business and exercise its powers inside or
13 outside the state;

14 (11) adopt, amend, and repeal bylaws;

15 (12) make all contracts necessary, convenient, or appropri-
16 ate for the full exercise of its powers;

17 (13) make donations for the public welfare or for charita-
18 ble, scientific, or educational purposes;

19 (14) do and perform any other act and thing, and have and
20 exercise any other power which may be necessary, convenient, or appro-
21 priate to accomplish the purpose for which the cooperative is or-
22 ganized.

23 * Sec. 2. AS 10.25.020 is amended to read:

24 Sec. 10.25.020. POWERS OF ELECTRIC COOPERATIVE. An electric
25 cooperative may

26 (1) either jointly or individually, plan for, generate,
27 manufacture, purchase, acquire, accumulate, and transmit electric
28 energy and heat, and distribute, sell, supply, and dispose of electric
29 energy and heat to its members, to governmental agencies and political

1 subdivisions, and to other persons not exceeding 10 percent of the
2 number of its members; however, a cooperative that [WHICH] acquires
3 existing electric facilities may continue service to persons, not in
4 excess of 40 percent of the number of its members, who are already
5 receiving service from these facilities without requiring them to
6 become members, and these persons may become members upon the terms as
7 may be prescribed in the bylaws;

8 (2) assist persons to whom electric energy is or will be
9 supplied by the cooperative in wiring their premises and in acquiring
10 and installing electrical and plumbing appliances, equipment, fixtures
11 and apparatus by financing them, and in connection with these services
12 wire or have wired the premises, and buy, acquire, lease, sell, dis-
13 tribute, install, and repair electric and plumbing appliances, equip-
14 ment, fixtures, and apparatus;

15 (3) assist persons to whom electric energy is or will be
16 supplied by the cooperative in constructing, equipping, maintaining,
17 and operating electric cold storage or processing plants by financing
18 them or otherwise;

19 (4) participate in economic development activities in the
20 service area of the cooperative.

21 * Sec. 3. AS 10.25.070 is amended to read:

22 Sec. 10.25.070. BYLAWS. The board of directors shall adopt the
23 first bylaws of a cooperative to be adopted following an incorpo-
24 ration, conversion, merger, or consolidation. Thereafter the district
25 delegates in cooperatives having three or more districts that are not
26 connected by a road system to another district of the cooperative may
27 adopt, amend, or repeal the bylaws by the affirmative vote of a major-
28 ity of the district delegates voting on the adoption, amendment, or
29 repeal at a meeting of the district delegates. In all other

1 cooperatives the members shall adopt, amend, or repeal the bylaws by
2 the affirmative vote of a majority of the members voting on the ques-
3 tion [ADOPTION, AMENDMENT, OR REPEAL EITHER AT A MEETING OF THE MEM-
4 BERS OR BY MAIL BALLOT WITHOUT A MEETING]. The bylaws shall set out
5 the rights and duties of members, district delegates, and directors
6 and may contain other provisions for the regulation and management of
7 the affairs of the cooperative consistent with this chapter or with
8 the articles of incorporation of the cooperative.

9 * Sec. 4. AS 10.25.080 is amended to read:

10 Sec. 10.25.080. MEMBERS. (a) Each incorporator of a coopera-
11 tive shall be a member of the cooperative or of another cooperative
12 that is a member of it. A person may not become a member unless that
13 person agrees to use electric energy, or telephone service, or other
14 services furnished by the cooperative when they are made available
15 through its facilities.

16 (b) Membership in a cooperative is not transferrable, except as
17 provided in the bylaws. The bylaws may

18 (1) prescribe additional qualifications and limitations on
19 membership;

20 (2) require membership as a condition of obtaining service
21 from the cooperative;

22 (3) provide for termination or suspension of membership;
23 however, a membership may not be terminated unless procedures for
24 termination are contained in the bylaws.

25 * Sec. 5. AS 10.25.100 is amended to read:

26 Sec. 10.25.100. NOTICE OF MEETINGS. Except as otherwise pro-
27 vided in this chapter, written notice stating the time and place of
28 the annual [EACH] meeting of the members or district delegates [AND,
29 IN THE CASE OF A SPECIAL MEETING, THE PURPOSE OR PURPOSES FOR WHICH

1 THE MEETING IS CALLED,) shall be given to each member or district
2 delegate, either personally or by mail, not less than 20 days nor more
3 than 40 days before the date of the meeting. Notice of a special
4 meeting of the members, together with notice of the purpose for which
5 the meeting is called, shall be given to each member or district
6 delegate, either personally or by mail, not less than 90 days or more
7 than 120 days before the date of the meeting. If mailed, notice is
8 considered given when it is deposited in the United States mail with
9 postage prepaid addressed to the member or district delegate at the
10 address of the member or delegate as it appears on the records of the
11 cooperative.

12 * Sec. 6. AS 10.25.120 is amended to read:

13 Sec. 10.25.120. VOTING. Each member is entitled to one vote on
14 each matter submitted to a vote of the membership [(1) AT A MEETING OF
15 THE MEMBERS OR (2) BY MAIL BALLOT PERMITTED BY AS 10.25.070]. Each
16 member of a district is entitled to one vote on each matter submitted
17 to a vote at a district meeting. A member may not vote by proxy but
18 may vote [VOTING AT A MEETING SHALL BE IN PERSON, BUT], if the bylaws
19 so provide, [MAY ALSO BE] by mail.

20 * Sec. 7. AS 10.25 is amended by adding a new section to read:

21 Sec. 10.25.125. RECORD DATE. To determine the members en-
22 titled to notice of a meeting of the members or to vote on a matter
23 that is to be submitted to a vote of the members, or for any other
24 proper purpose, the board of directors may fix in advance a date as
25 the record date for the determination. If a record date is not
26 fixed for the determination of members entitled to notice of a
27 meeting or to vote on a matter, the date on which notice of the
28 meeting or of mail voting is first mailed is the record date. When a
29 determination of members entitled to vote at a meeting is made, the

1 determination applies until the meeting is adjourned sine die.

2 * Sec. 8. AS 10.25.140 is amended to read:

3 Sec. 10.25.140. BOARD OF DIRECTORS. The business of a co-
4 operative shall be managed by a board of not less than five directors,
5 each of whom shall be a member of the cooperative or of another co-
6 operative which is a member of it. The bylaws shall prescribe the
7 number of directors, their qualifications other than those prescribed
8 in this chapter, and the manner of holding meetings of the board of
9 directors and of electing successors to directors who resign, die, or
10 are otherwise incapable of acting. The bylaws may provide for the
11 removal of directors from office for cause and for the election of
12 their successors. Directors may not receive salaries for the ser-
13 vices as directors and, except in emergencies, shall not receive
14 salaries for their services in any other capacity without the approval
15 of the members. The bylaws may, however, prescribe a fixed fee for
16 each day of attendance at a meeting while officially representing the
17 cooperative [EACH MEETING OF THE BOARD OF DIRECTORS] and may provide
18 for insurance and reimbursement of actual expenses incurred while
19 performing duties as a director [OF ATTENDANCE].

20 * Sec. 9. AS 10.25 is amended by adding a new section to read:

21 Sec. 10.25.145. LIABILITY, INDEMNIFICATION, AND INSURANCE. (a)
22 A protected person is not individually liable for conduct performed
23 within the scope of the person's duties for the cooperative. However,
24 the protected person may be held individually liable for conduct if it
25 was not reasonable for the person to believe that the conduct was in,
26 or not contrary to, the best interests of the cooperative.

27 (b) Unless prohibited by the articles of incorporation or by-
28 laws, the cooperative shall indemnify a protected person who is or may
29 be made a party to a contested matter against expenses actually and

1 reasonably incurred in connection with the contested matter. However,
2 the cooperative may not indemnify the protected person if the person
3 did not reasonably believe the conduct to be in, or not opposed to,
4 the best interests of the cooperative. With respect to a criminal
5 action or proceeding, the cooperative shall indemnify a protected
6 person unless the person had reasonable cause to believe that the
7 conduct was unlawful.

8 (c) A cooperative may purchase and maintain insurance on behalf
9 of a protected person against liability asserted against the protected
10 person and incurred in an official capacity or arising out of the
11 person's status, whether or not the cooperative would have the power
12 to indemnify the person against the liability under this section.

13 (d) In this section

14 (1) "conduct" includes action, inaction, and omission;

15 (2) "contested matter" means a proposed, pending, or com-
16 pleted action or proceeding, whether civil, criminal, administrative,
17 or investigative;

18 (3) "expenses" include attorney fees, judgments, fines, and
19 amounts paid in settlement;

20 (4) "protected person" means a director, officer, employee,
21 or agent of a cooperative.

22 * Sec. 10. AS 10.25.150 is amended to read:

23 Sec. 10.25.150. TERM OF OFFICE OF DIRECTORS. The directors of
24 a cooperative named in articles of incorporation, consolidation,
25 merger, or conversion hold office until the next annual meeting of the
26 members and until their successors are elected and qualify. [AT EACH
27 ANNUAL MEETING, OR IN CASE OF FAILURE TO HOLD THE ANNUAL MEETING AS
28 SPECIFIED IN THE BYLAWS, AT A SPECIAL MEETING CALLED FOR THAT PURPOSE,
29 THE MEMBERS SHALL ELECT DIRECTORS TO HOLD OFFICE UNTIL THE NEXT ANNUAL

MEETING OF THE MEMBERS, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER.]
Each director elected by the membership holds office for the term for which elected and until a successor is elected and qualifies.

* Sec. 11. AS 10.25.160 is amended to read:

Sec. 10.25.160. STAGGERED TERMS OF OFFICE FOR DIRECTORS. Instead of electing all directors annually, the bylaws may provide that directors shall be elected for terms not to exceed three years, or until their successors are elected and qualify, and that the terms of directors shall be staggered so that one-third of the directors, or a number as close to one-third as possible, shall be elected [AT] each year [ANNUAL MEETING].

* Sec. 12. AS 10.25.175(a) is amended to read:

(a) A meeting of the board of directors may be attended by members of the cooperative. Except when voice votes are authorized, a vote shall be conducted in such a manner that the members may know the vote of each person entitled to vote. The board of directors may conduct a meeting by teleconference or similar communications equipment. This section applies only to a meeting at which a quorum of the board is present and participates.

* Sec. 13. AS 10.25.175(c) is amended to read:

(c) The following excepted subjects may be discussed in an executive session:

(1) matters the immediate knowledge of which would clearly have an adverse effect on the finances of the cooperative;

(2) subjects that tend to prejudice the reputation and character of a person, including information concerning a member's financial record; however, the person may request a public discussion;

(3) matters discussed with an attorney for the cooperative, the immediate knowledge of which could have an adverse effect on the

1 legal position of the cooperative;

2 (4) labor negotiations and personnel matters;

3 (5) matters specifically exempted from disclosure by law,
4 the articles of incorporation, or the bylaws;

5 (6) bids, trade secrets, or other confidential commercial
6 information;

7 (7) discussion of litigation by or against the cooperative.

8 * Sec. 14. AS 10.25.175(e) is repealed and reenacted to read:

9 (e) A member affected by action taken contrary to this section
10 may bring a suit in the superior court. The court may order appropri-
11 ate equitable relief after considering the circumstances of the case.
12 Action taken contrary to this section is not void if other equitable
13 relief is available and appropriate.

14 * Sec. 15. AS 10.25.235 is amended to read:

15 Sec. 10.25.235. MEMBER'S RIGHT TO EXAMINE BOOKS AND RECORDS. A
16 member of a cooperative may, at a reasonable time and for a proper
17 purpose, examine and make copies of the books and records of the
18 cooperative at the principal office of the cooperative. The coopera-
19 tive may charge a member an amount equal to the actual cost of du-
20 plicating documents requested under this section. The cooperative may
21 withhold books and records concerning subjects that may be discussed
22 in executive session under AS 10.25.175(c).

23 * Sec. 16. AS 10.25.240 is amended to read:

24 Sec. 10.25.240. MERGER. One or more cooperatives, each [HERE-
25 INAFTER] designated in this section as "merging cooperative," may
26 merge into another cooperative, [HEREINAFTER] designated in this
27 section as "surviving cooperative," by complying with the following
28 requirements.

29 (1) The proposition for the merger of the merging

1 cooperatives into the surviving cooperative and proposed articles of
2 merger shall be submitted to [A MEETING OF] the members of each merg-
3 ing cooperative and of the surviving cooperative. The notice [OF THE
4 MEETING] shall have attached to it a copy of the proposed articles of
5 merger.

6 (2) If the proposed merger and the proposed articles of
7 merger, with any amendments, are approved by the affirmative vote of
8 not less than two-thirds of those members of each cooperative voting
9 on them [AT THE MEETING], articles of merger in the form approved
10 shall be executed and acknowledged on behalf of each cooperative by
11 its president or vice president and its seal shall be affixed by its
12 secretary.

13 * Sec. 17. AS 10.25.245(a) is amended to read:

14 (a) A cooperative organized under [THE PROVISIONS OF] this
15 chapter may merge into a corporation organized under AS 10.05 that

16 (1) is engaged in business as the same type of public
17 utility as the cooperative;

18 (2) [AND] is certificated to provide utility service of the
19 same type as the cooperative; and

20 (3) whose certificated area is contiguous to the area of
21 the cooperative [AS AN ELECTRIC OR TELEPHONE UTILITY].

22 * Sec. 18. AS 10.25.260 is amended to read:

23 Sec. 10.25.260. CONSOLIDATION. Two or more cooperatives,
24 [HEREINAFTER] designated in this section as "consolidating coopera-
25 tive," may consolidate into a new cooperative, [HEREINAFTER] designat-
26 ed in this section as the "new cooperative," by complying with the
27 following requirements:

28 (1) The proposition for the consolidation into the new
29 cooperative and proposed articles of consolidation shall be submitted

1 to [A MEETING OF] the members of each consolidating cooperative. The
2 notice [OF THE MEETING] shall have attached to it a copy of the pro-
3 posed articles of consolidation.
4

5 (2) If the proposed consolidation and the proposed articles
6 of consolidation, with any amendments, are approved by the affirmative
7 vote of not less than two-thirds of those members of each consolidat-
8 ing cooperative voting on them, articles of consolidation in the form
9 approved shall be executed and acknowledged on behalf of each consol-
10 idating cooperative by its president or vice president and its seal
11 shall be affixed and attested by its secretary.

* Sec. 19. AS 10.25.320 is amended to read:

12 Sec. 10.25.320. DISSOLUTION OF COOPERATIVE THAT [WHICH] HAS
13 COMMENCED BUSINESS. A cooperative that [WHICH] has commenced business
14 may be dissolved in the following manner.
15

16 (1) The proposition to dissolve shall be submitted to the
17 members of the cooperative at an annual or special meeting. The
18 notice shall state [SET FORTH] the proposition.

19 (2) At the meeting the members shall approve, by the affir-
20 mative vote of not less than two-thirds [A MAJORITY] of all members of
21 the cooperative, the proposition to dissolve the cooperative.

22 (3) Upon approval, a certificate of election to dissolve,
23 hereafter designated the "certificate," executed and acknowledged on
24 behalf of the cooperative by its president or vice president under its
25 seal, attested by its secretary, shall be submitted to the commission-
26 er for filing together with an affidavit by the officer executing the
27 certificate stating that the statements in the certificate are true.
28 The certificate shall state the name of the cooperative, the address
29 of its principal office, and that the members of the cooperative have
voted to dissolve the cooperative.

1 * Sec. 20. AS 10.25.400 is amended to read:

2 Sec. 10.25.400. LIMITATIONS ON DISPOSITION OF ALL THE PROPERTY.
3 A cooperative may not otherwise sell, lease, or dispose of more than
4 15 percent of the cooperative's total assets as reflected on the books
5 of the cooperative at the time of the transaction [ALL OR A SUBSTAN-
6 TIAL PORTION OF ITS PROPERTY] unless the transaction is authorized by
7 the affirmative vote of not less than two-thirds [A MAJORITY] of all
8 the members of the cooperative. However, notwithstanding a provision
9 of this chapter or any other provision of law, the board of directors
10 may, upon the authorization of a majority of those members of the
11 cooperative present at a meeting of the members, sell, lease, or
12 otherwise dispose of all or a substantial portion of its property to
13 another cooperative or to the state [OR TO THE HOLDER OF ITS PROPERTY
14 TO ANOTHER COOPERATIVE OR TO THE HOLDER OF AN EVIDENCE OF INDEBTEDNESS
15 ISSUED TO THE UNITED STATES OF AMERICA OR AN AGENCY OR INSTRUMENTALITY
16 OF IT].

17 * Sec. 21. AS 10.25.400 is amended by adding new subsections to read:

18 (b) Before a meeting to vote on authorization for the disposi-
19 tion or sale of more than 15 percent of the property of the coopera-
20 tive, the board of directors shall

21 (1) have the property appraised by three appraisers chosen
22 by the board and not associated with the cooperative or a proposed
23 buyer of cooperative property; the proposed buyer shall advance to the
24 cooperative money sufficient to pay for the appraisals;

25 (2) notify all cooperative members, at least 90 days in
26 advance, of a meeting to vote on disposition of cooperative property;
27 the notice must contain detailed proposals for disposition of the
28 property;

29 (3) at least 90 days before the meeting, notify all other

1 cooperatives situated and operating in the state that the property is
2 available for disposition and include with the notice one copy of each
3 appraisal of the property; and
4

5 (4) at least 30 days before the meeting, mail to all mem-
6 bers any alternate proposals made by another cooperative, or by co-
7 operative members if an alternate proposal signed by at least 50
8 members has been submitted to the board, together with any recommenda-
9 tion that the board has made.

10 (c) This section does not apply to the transfer of cooperative
11 property under AS 10.25.240 - 10.25.300.

12 * Sec. 22. This Act takes effect immediately under AS 01.10.070(c).
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11.9. 15-1534
XXXXXX/8972

WORK ORDER REQUEST FORM

KEYWORDS: grill-lac
concordia

ASSIGNED TO _____

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Y. Spill 2. 1. 1. 1.

REQUESTED FOR _____ BY _____ EXT. _____

* DELIVER TO _____ TAKEN BY _____

INSTRUCTIONS, EXPLANATIONS _____

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

TO REQUESTER

APPROVED: _____ Director, Legal Services

_____ Director, Research

REVIEWED _____

IN _____ DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

*Amendments to Electric and Telephone
Cooperative Act (AS 10.25)*

*Comments from Alaska Rural Electric
Cooperative Association (ARECA)*

Introduction

The Electric and Telephone Cooperative Act was originally enacted in 1959 as a variation of the model state legislation recommended by the Rural Electrification Administration (REA), a unit within the U.S. Department of Agriculture. The REA serves as the principal banker for most electric and telephone cooperatives, and this relationship accounts for their strong and continuing interest in our state enabling legislation.

The environment within which the coops operate has changed immensely during the last 29 years, and the old model act no longer covers everything that is needed in Alaska law. There have been a number of amendments to AS 10.25 through the years, and some internal inconsistencies within the Act have resulted from some of those amendments.

ARECA had a committee from across the state study AS 10.25 for about a year to develop the changes which are needed to clear up ambiguities, to permit cooperatives to operate efficiently, and to assure proper control of the cooperatives by the members. The draft prepared by that committee and unanimously approved by the members of the association provided the starting place from which SB 369 and HB 394 were prepared.

Mail Voting

One kind of change which appears in numerous locations throughout these bills is to clear up the conflicting language on how membership votes may be conducted. The legislature decided long ago that coops should have the option of conducting elections and other membership votes by mail. However, a number of sections still refer to such decisions being made "at the meeting." These bills would make it clear that, if the bylaws so provide, all membership votes can be conducted by mail.

Takeovers/Sellouts

A second change which required amendments in several sections is to make certain that any proposed sale of a cooperative is considered by an informed membership and that a decision to sell must be agreed to by a substantial proportion of the members of the cooperative (Sec. 5, 18, 19, 20). The sale or dissolution of a cooperative is final and irreversible. Such a momentous decision should not be made lightly or by a simple majority. If a pro-sale majority one day becomes a minority on some other day, there is no way to unscramble the egg. To protect the interests of the cooperative members against transitory swings in public opinion, a large majority should be required to agree to the death of the cooperative. In these bills, a two-thirds majority is proposed.

Powers of Cooperatives

The authority to make contributions for various public purposes (Sec. 1) is adopted verbatim from the law governing all other types of cooperatives in this state (AS 10.15.010 (12)). A typical instance in which this authority is needed is when some local civic or charitable group plans an event for which it needs a temporary service. In many such cases, the cooperative would like to support the local effort by making an in-kind contribution of the temporary service drop rather than having to charge according to its line extension policy. Another example is to permit the electric coops to participate in the National Electric Power Research Institute.

Electric cooperatives would also be authorized to operate waste heat distribution systems (Sec. 2). Since 1980, the legislature has encouraged the use of waste heat, but the cooperatives have no clear authority to engage in that business. The authority to operate an existing system (other than waste heat) is intended to permit Golden Valley Electric Association to operate the Fairbanks district heating system now owned by the city if the city should decide to divest itself of that system.

Members

The provision to permit cooperatives to require membership as a condition of service (Sec. 4) is necessary to protect the coops from the possibility of losing their tax exempt status. The Internal Revenue Service (IRS) requires cooperatives to get not less than 85 percent of their revenues from providing service to members.

The provision prohibiting cooperatives from terminating or suspending memberships (Sec. 4) unless their bylaws establish the procedure, is also necessary to keep the coops out of trouble with the IRS. Terminating or suspending a membership without due process can cause the loss of a tax exemption. This provision was adapted from California Corporate Code 12410, Article 4.

Notice of Meetings

The increase in notice requirements for special meetings of the members (Sec. 5) is necessary to give adequate time for the informational processes established in Section 20 to be used when a special meeting is called to sell a cooperative.

Record Date

Establishing a record date for the right to participate in membership meetings (Sec. 7) helps to eliminate disputes as to the legality of actions taken by the members on hotly contested issues at annual or special meetings or other cooperative elections. This new section was adapted from the Alaska Business Corporation Act (AS 10.05.144).

Board Compensation

The principal change in Section 8 is to clarify the law on the payment of per diem to directors. The intent is to make it clear that directors can be compensated for the days on which the director is attending meetings in the performance of duties, not just

attendance at formal meetings of the board. However, the language needs to be amended to make it clear that it is a day rather than a meeting which authorizes the payment of per diem. (If a director were to go to three meetings on one day, the director should receive one per diem payment, not three.) To accomplish this, on page 6, line 12, the words "and at a" should be replaced with "or other."

Liability, Indemnification, and Insurance

The new language contained in Section 9 is necessary to protect directors and officers from individual liability for actions properly taken in the course of their duties. Subsection (a) limits the liability; (b) authorizes the cooperative to indemnify the directors; and (c) authorizes the cooperative to buy directors' and officers' liability insurance as a way to provide the indemnification. Similar limitations on personal liability are provided for directors and officers of business corporations (AS 10.05.010 (g)) and for many non profit corporations, public hospitals, public schools, and municipalities (AS 9.17.050).

Board Meetings

Board meetings could be conducted by teleconference (Sec. 12). A similar provision is made for boards of business corporations (AS 10.05.199 (a)).

Several specific items are listed which would permit a board of directors to meet in executive session (Sec. 13). Each of these specifics was thought to be encompassed in the general reasons for executive sessions listed as 1 - 3 when this statute was enacted in 1982. Recent court decisions have cast some doubt on that assumption, so listing these specific items is necessary.

The penalty for violations of the meetings statute needs to be rewritten as is done in Section 14 to permit the court to determine the appropriate equitable relief. Under the present law the only penalty authorized is to void any action taken at a meeting not in compliance with this section of the law. Recent court decisions seem to indicate that there is no way to correct actions taken incorrectly once they have been voided. This could cripple a cooperative if action on a major item like a power supply contract were voided.

Examination of Records

Information on subjects which can properly be discussed in executive session should also be protected in written form (Sec. 15). For example, it does no good to go into executive session to discuss an individual consumer's payment history if the records of that payment history are themselves available for inspection.

Limitations on Sale of Property

In addition to requiring a two-thirds vote to sell a cooperative as discussed earlier, Section 19 clarifies the law on exactly which sales of coop property must be referred to a vote of the members.

Section 20 establishes a procedure for having the cooperative's property appraised, informing the members, and inviting competing proposals. The purpose of this section is to protect the members by making sure they know what the coop's property is worth before they vote on an offer to buy it.

We do propose that this section be amended on page 12, line 11 by changing the phrase "have this property appraised" to "have all the real and personal property proposed for sale appraised". The reason for this change is to inform the members about the value of personal property such as long-term power supply contracts which would not show up on the books of the cooperative.

Sale of Glacier Highway Electric Association to Alaska Electric Light and Power

The possible merger of the two utilities in the Juneau area has been under negotiation, off and on, for about 20 years. We do not want to change the rules regarding that possible transaction when it is so near completion. A new section on "transitional provisions" should be added which provides that any sale of cooperative property approved by the members under AS 10.25.400 before the effective date of this Act will be valid even if the transaction is not completed by the effective date.

Another new section needs to be added to repeal AS 10.25.245. This section was enacted in 1980 at the request of GHEA, and it was intended to make a merger with AEL&P easier. The negotiations have proved this approach not to be practical, and it is not used in the proposed sale of GHEA to AEL&P. This section serves no purpose, and we ask that it be repealed.

Glacier Highway Electric Association Inc.



P. O. Box 210547 • Auke Bay, Alaska 99821 • Phone (907) 789-7344

February 4, 1988

David Hutchens, Executive Director
Alaska Rural Electric Cooperative Association, Inc.
237 E. Fireweed Lane, Suite 301
Anchorage, Alaska 99503

Re: HB 394/SB 369

Dave,

At our urging AS 10.25 was amended in 1980 to add a section 10.25.245 which would permit the merger of a cooperative with a business corporation. At the time we hoped to merge with Juneau's principal electric utility, the Alaska Electric Light and Power Company. As events turned out, our merger effort failed. Therefore, we have no objection to section 10.25.245 being rescinded.

Over the past two years we have been negotiating an asset purchase agreement with AELP where AELP will purchase all of the assets of our cooperative. We have reached an agreement and expect this effort to succeed; however, it will take some time to be approved by our members, lenders and various government agencies including the Alaska Public Utilities Commission. We ask that our continuing efforts to consolidate Juneau's electric utilities be exempted from the proposed changes of HB 394/SB 369 for 10.25 provisions governing the sale of a cooperative's assets and the dissolution of a cooperative.

Sincerely,

Charles Y. Walls, General Manager
Glacier Highway Electric Association, Inc.

cc: W.A. Corbus, AELP



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707-1249, Phone 907-452-1151

ELECTRIC AND TELEPHONE COOPERATIVE ACT, AS 10.25

RESOLUTION

WHEREAS, the Electric and Telephone Cooperative Act (AS 10.25), originally enacted in 1959, is now outdated and has been amended in ways which produced internal inconsistencies; and

WHEREAS, the Alaska Rural Electric Cooperative Association (ARECA) has conducted a thorough study of the changes in this statute necessary for the efficient operations of cooperative utilities and the effective control of those utilities by their member-consumers; and

WHEREAS, Golden Valley Electric Association (GVEA) participated in the ARECA study of AS 10.25 and would benefit from the resulting proposed legislation; and

WHEREAS, Representative Niilo Koponen has expressed an interest in assisting with this legislative effort subject to a clear statement of position from this Board;

THEREFORE BE IT RESOLVED:

1. GVEA fully supports the amendments to AS 10.25 proposed by ARECA;
2. GVEA appreciates the support for this effort from Representative Niilo Koponen and respectfully requests assistance for this effort from the rest of the Interior Legislative Delegation; and
3. Directs distribution of this resolution to the Interior Legislative Delegation.

CERTIFICATION

I, William D. Digan, do hereby certify that I am the Secretary of Golden Valley Electric Association, Inc., an electric non-profit cooperative membership corporation organized and existing under the laws of the State of Alaska; that the foregoing is a complete and correct copy of a resolution adopted at a meeting of the Board of Directors of this corporation, duly and properly called and held on the 25th day of January 1988; that a quorum was present at the meeting; that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the corporation this 25th day of January 1988.

(SEAL)


William D. Digan, Secretary

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 369
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to electric and telephone cooperatives
Sponsor: Labor and Commerce Committee
Requester: _____

Agency Affected: Commerce & Economic Development
BRU: Banking, Securities & Corporations
Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULLTIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

N/A

Prepared by: Willis F. Kirkpatrick, Director
Division: Banking, Securities & Corporations

Phone: 465-2521
Date: 2/26/88

Approved by Commissioner: J. Anthony Smith
Agency: Commerce & Ec. Development

Date: 2/26/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

S B

3 9 1

Gary Koski- Pres.
Homegrown Industries LTD.
P.O. 91537
Anchorage, Ak. 99509
Ph.# (907)276-8260

Dear Senator Kelly,

I am writing to you in regards to S.B. 391, an Act relating to the sale of wine by wineries. I am starting up Alaska Winery, Alaska's first licensed winery to produce, ferment, and bottle a line of fine berry and fruit wines from locally grown produce. In order to accomplish this, we are actively engaged in the creation of a commercial berry industry which would increase the berry crop from a present level of 5-6000 pounds per year, up to 40-50,000 pounds per year and could create well over 200 jobs. I am not asking for state assistance, although the Anchorage Economic Development Corporation Board of Directors has agreed to support and back us in securing financial support.

We are hoping to start operation of our winery this summer and to be able to use part of this years crop of fruit to advantage. We will be starting off as a micro-scale winery (15,000 bottles/yr), expanding production as we gain market acceptance and the expansion of the berry crop allow. Expansion of the berry industry will also allow the expansion of or the creation of various other berry users such as Alaska Wild Berry Products and others.

S.B. 391 would allow us to sell our wine, and only our wine, from our winery to the general public, the bulk of which will be tourists. Passage of this bill would follow in the steps of the other 49 states that allow the manufacturer of a legally produced wine the ability to sell his wine, but only his wine, from his winery to the general public. The restriction of being only allowed to sell less than two cases (5 wine gallons) is a sensible restriction and will allow for more control. Paragraph C of Sec. 04.11.140 already prohibits us from selling our wine by the glass. But we should be able to sell a bottle or two of Blueberry or Salmonberry Wine to John Q. Tourist if he wants to take a bottle back to his Uncle Jake or his sister Betty.

I have talked to Bill Roche and Pat Sharrock of the Alcohol Beverage Control Board about this bill and they could see no problem with it and said that they support both it and us, in our development. With out the rights to sell our product to the general public, in any quantity, makes us dependant on a third party to sell our wine for us and we will not be able to operate or exist.

I urge you for your support in passage of S.B. 391. If you have any questions about Alaska Winery, please get in touch with me and I will provide you answers.

Sincerely,



Gary Koski- Pres.

SB

405

Alaska State Legislature

INTERIM OFFICE
3111 'C' STREET, SUITE 535
ANCHORAGE, ALASKA 99503
(907) 561-7614

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4747



Senator Mitch Abood
SENATE DISTRICT G-A

CHAIRMAN
STATE AFFAIRS
MAJORITY WHIP
MEMBER
TRANSPORTATION
COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
INTERNATIONAL TRADE

MEMORANDUM

TO: Senator Paul Fisher, Chairman
Health, Education & Social Services Committee

FROM: Senator Mitch Abood *MA*

SUBJECT: SB 405 "An Act relating to the practice of
Acupuncture."

DATE: February 20, 1988

I would appreciate your scheduling the above referenced bill before the Health, Education and Social Services Committee at your earliest possible convenience.

The purpose of the bill is to establish a system of licensure for the practice of acupuncture in the state. Currently, Alaska law allows only medical doctors and dentists to practice acupuncture. Treatment by acupuncture frequently meets the needs of many patients where conventional medical practices have failed. The rapid development of the profession, including the establishment of national standards for the education and practice of acupuncture, has resulted in increased public interest and increased demand for access to qualified acupuncturists.

If you should have further need for information, please contact Kim Daniels in my office and we will be happy to provide additional backup.

/kd

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the practice of acupuncture.
Sponsor: Senator Abood
Requestor: _____

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL		7.4	7.4	7.4	7.4	7.4
CONTRACTUAL		1.0	1.0	1.0	1.0	1.0
SUPPLIES		1	1	1	1	1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		8.5	8.5	8.5	8.5	8.5

CAPITAL						
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REVENUE		13.0	1.3	18.2	1.3	20.8
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		8.5	8.5	8.5	8.5	8.5
TOTAL		8.5	8.5	8.5	8.5	8.5

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Currently, only medical doctors are allowed to practice acupuncture in this State. SB 405 will provide all qualified acupuncturists (not only medical doctors) to offer their services to consumers. At this time, the number of individuals presently in Alaska who will seek licensure under this bill is not known. Therefore, the costs identified are based on a five member board

(cont. of attached)

Prepared by: Jennifer Strickler, Ment. Analyst Phone: 465-2144
Division: Occupational Licensing Date: 2/24/88

Approved by Commissioner: J. Anthony Smith Date: 2/24/88
Agency: Commerce and Economic Development

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 405

which will meet at least twice a year as required by the bill; and contractual costs for printing and advertising.

Revenues: In an effort to cover the costs of the licensing function with program receipts from licensing fees, we have estimated that licensing fees be set at \$65 per year (\$130 biennially); which will generate \$13,000 in the first year assuming there are at least 100 licensees, and approximately 10 new licensees each year thereafter.


SB 405: An Act relating to the practice of acupuncture.

The bill establishes a Board of Acupuncture composed of five members to regulate and license qualified individuals. The board meets twice each year to conduct their business. Currently, only licensed medical doctors are allowed to practice acupuncture in this State. The bill changes the current practice to allow individuals who meet the licensing requirements in Section 08.06.070 of the new bill to become licensed and offer their services.

According to information obtained, there are 22 states in addition to Alaska which provide for licensing, registration or certification of acupuncture. Alaska is currently the only state in which the practice is required to be performed by a licensed medical doctor. In some states, however, practitioners are allowed to perform acupuncture only under the supervision of a medical doctor. At this time, the number of physicians presently in Alaska who could seek licensure under this bill or whose practice would be affected by the bill is not known precisely; however, it appears that there are currently two (2) licensed physicians who practice acupuncture in Alaska and another doctor who is retired, or semiretired who did practice acupuncture.

SB 405 may increase the health care services available to consumers by allowing qualified individuals to practice acupuncture. However, the department is not presently aware of any public concern for the currently licensed acupuncturists, nor are we aware of a substantially unmet public demand for acupuncture services. The department, therefore, questions the need for a board to regulate the occupation and suggests that licensing could be more cost-effectively administered by department staff without a board. The Division of Occupational Licensing currently regulates eight occupations without boards and believes, until we are more sure of the numbers to be licensed, that the board would be overly expensive.

In summary, the department does not oppose the licensing of acupuncture and only raises a concern regarding the creation of a board to regulate a profession that may have very few licensed professionals.


J. Anthony Smith, Commissioner
Department of Commerce and
Economic Development

Date: 2/29/88

JS/dg10040o
022688a

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**


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In summary, the department does not oppose the licensing of acupuncture and only raises a concern regarding the creation of a board to regulate a profession that may have very few licensed professionals.



J. Anthony Smith, Commissioner
Department of Commerce and
Economic Development

Date: 2/29/88

JS/dg10040o
022688a

Alaska State Legislature

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WHILE IN SESSION
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Senator Mitch Abood
SENATE DISTRICT G-A

CHAIRMAN
STATE AFFAIRS
MAJORITY WHIP

MEMBER
TRANSPORTATION
COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
INTERNATIONAL TRADE

DATE: 04 MAY 1988

TO: SENATOR TIM KELLY, CHAIRMAN
SENATE LABOR AND COMMERCE COMMITTEE

FROM: Senator Mitch Abood *M.Abood*

RE: CSSB 405 (HESS) "AN ACT RELATING TO THE PRACTICE
OF ACUPUNCTURE"

Thank you for scheduling SB 405 for a hearing before the Senate Labor and Commerce Committee.

The purpose of this bill is to establish a licensing system for the practice of acupuncture in the state. Currently, Alaska law allows only medical doctors and dentists to practice acupuncture. Treatment by acupuncture frequently meets the needs of many patients where conventional medical practices have failed. The rapid development of the profession, including the establishment of the national educational standard for acupuncture, has resulted in increased public interest and increased demand for access to qualified acupuncturists.

This proposed committee substitute for SB 405 deletes the creation of a Board of Acupuncture and puts the duties which were listed under the board in CSSB 405 (HESS) under the Department of Commerce and Economic Development.

Also included in this draft are some minor housekeeping measures as follows:

Page 2, line 28: DELETE: [COUNCIL]
INSERT: Commission

Page 2, line 29: DELETE: [AT A SCHOOL OF
ACUPUNCTURE]
INSERT: or other training program

5-1684L
Utermohle
4/26/88

Original sponsor: Abood

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 405 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL,

6 For an Act entitled: "An Act relating to the practice of acupuncture."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. PURPOSE. The health, safety, and welfare of the people of
9 the state are best served by the establishment of an orderly system of
10 licensure for the practice of acupuncture in the state. The rapid develop-
11 ment of the profession, including the establishment of national standards
12 for the education and practice of acupuncturists, has resulted in increased
13 public interest and increased demand for access to qualified acupunc-
14 turists.

15 * Sec. 2. AS 08 is amended by adding a new chapter to read:

16 CHAPTER 06. ACUPUNCTURE.

17 ARTICLE 1. LICENSURE AND PRACTICE OF ACUPUNCTURISTS.

18 Sec. 08.06.010. DUTIES OF THE DEPARTMENT. The Department of
19 Commerce and Economic Development shall

20 (1) issue licenses to practice acupuncture;

21 (2) impose disciplinary sanctions as authorized by this
22 chapter;

23 (3) prepare an annual report for submission to the legisla-
24 ture covering activities under this chapter, including a summary of
25 all complaints received, disciplinary actions taken, and prosecutions
26 brought under this chapter; and

27 (4) adopt regulations under the Administrative Procedure
28 Act (AS 44.62) necessary to carry out the purposes of this chapter
29 including

- 1 (A) standards for the practice of acupuncture;
2 (B) standards for continuing education and training;
3 (C) a code of ethics for the the practice of acupunc-
4 ture.

5 Sec. 08.06.020. PRACTICE OF ACUPUNCTURE WITHOUT LICENSE PROHIB-
6 ITED. A person may not practice acupuncture without a license.

7 Sec. 08.06.030. APPLICATION FOR LICENSE. A person desiring to
8 practice acupuncture shall apply in writing to the department.

9 Sec. 08.06.040. LICENSE TO PRACTICE ACUPUNCTURE. (a) A person
10 is qualified to receive a license to practice acupuncture if the
11 person

- 12 (1) is of good moral character;
13 (2) is at least 21 years of age;
14 (3) either

15 (A) has completed

16 (i) a course of study, consistent with the core
17 curriculum and guidelines of the National Commission of Acu-
18 puncture Schools and Colleges, approved by the department;
19 or

20 (ii) other training approved by the department; or

21 (B) is licensed in another state that has licensing
22 requirements approved by the department;

23 (4) is qualified for certification by the National Commis-
24 sion for the Certification of Acupuncturists as a diplomate in acu-
25 puncture;

26 (5) does not have a disciplinary proceeding or unresolved
27 complaint pending at the time of application; and

28 (6) has not had a license to practice acupuncture suspended
29 or revoked in this state or in another state, territory, or province.

1 (b) The department shall issue a license to practice acupuncture
2 to each person who is qualified and who pays the appropriate fee.

3 (c) Each person licensed to practice acupuncture under this
4 chapter shall display the license in a conspicuous place where the
5 licensee practices.

6 Sec. 08.06.050. RENEWAL OF LICENSE. A license under this chap-
7 ter may not be renewed unless the applicant

8 (1) demonstrates continued competence as an acupuncturist
9 in a manner established by the department in regulations; and

10 (2) submits proof that the applicant maintains certifica-
11 tion by the National Commission for the Certification of Acupunctur-
12 ists as a diplomate of acupuncture.

13 Sec. 08.06.060. DISCLOSURE. (a) A person who practices acu-
14 puncture shall disclose that the person's training and practice are in
15 acupuncture

16 (1) to each patient; and

17 (2) on all material used in the practice of acupuncture and
18 made available to patients or to the public.

19 (b) A person who practices acupuncture without being covered by
20 malpractice insurance shall disclose to each patient that the person
21 does not have the insurance.

22 Sec. 08.06.070. RESTRICTIONS ON PRACTICE OF ACUPUNCTURE. A
23 person who practices acupuncture may not

24 (1) give, prescribe, or recommend in the practice a

25 (A) prescription drug;

26 (B) controlled substance;

27 (C) poison;

28 (2) engage in surgery; or

29 (3) use the word "physician" in the person's title.

ARTICLE 2. GENERAL PROVISIONS.

1
2 Sec. 08.06.110. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
3 TIONS. After a hearing, the department may impose a disciplinary
4 sanction on a person licensed under this chapter when the department
5 finds that the licensee

6 (1) secured a license through deceit, fraud, or intentional
7 misrepresentation;

8 (2) engaged in deceit, fraud, or intentional misrepresenta-
9 tion in the course of providing professional services or engaging in
10 professional activities;

11 (3) advertised professional services in a false or mislead-
12 ing manner;

13 (4) has been convicted of a felony or other crime that
14 affects the licensee's ability to continue to practice competently and
15 safely;

16 (5) intentionally or negligently engaged in or permitted
17 the performance of patient care by persons under the licensee's super-
18 vision that does not conform to minimum professional standards regard-
19 less of whether actual injury to the patient occurred;

20 (6) failed to comply with this chapter, with a regulation
21 adopted under this chapter, or with an order of the department;

22 (7) continued to practice after becoming unfit due to

23 (A) professional incompetence;

24 (B) failure to keep informed of current professional
25 practices;

26 (C) addiction or severe dependency on alcohol or other
27 drugs that impairs the ability to practice safely;

28 (D) physical or mental disability; or

29 (8) engaged in lewd or immoral conduct in connection with

the delivery of professional service to patients.

Sec. 08.06.120. DISCIPLINARY POWERS OF DEPARTMENT. (a) The department may take the following disciplinary actions, singly or in combination:

- (1) permanently revoke a license;
- (2) suspend a license for a specified period;
- (3) censure or reprimand a licensee;
- (4) impose limitations or conditions on the professional practice of a licensee;
- (5) require a licensee to submit to peer review;
- (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
- (7) impose probation requiring a licensee to report regularly to the department on matters related to the grounds for probation;
- (8) impose a civil fine not to exceed \$5,000.

(b) The department may withdraw probationary status if the deficiencies that required the sanction are remedied.

(c) The department may summarily suspend a licensee from the practice of the profession before a final hearing is held or during an appeal if the department finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing before the department to appeal the summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the department on an appeal of a summary suspension to a court of competent jurisdiction.

(d) The department may reinstate a suspended or revoked license if, after a hearing, the department finds that the applicant is able

to practice the profession with skill and safety.

(e) The department may accept the voluntary surrender of a license. A license may not be returned unless the department determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.

(f) The department shall seek consistency in the application of disciplinary sanctions. The department shall explain a significant departure from prior decisions involving similar facts in the order imposing the sanction.

Sec. 08.06.130. ACUPUNCTURE TREATMENT UNDER HEALTH CARE INSURANCE. A health care insurance policy shall include coverage for the services of an acupuncturist licensed under this chapter, if the policy covers acupuncture treatment by a health care provider subject to this title.

Sec. 08.06.140. EXEMPTION. This chapter does not apply to a person who practices acupuncture under AS 08.36 or AS 08.64.

Sec. 08.06.150. PENALTY. A person who violates this chapter or a regulation adopted under this chapter is guilty of a class B misdemeanor. *IMPRISONMENT FOR 90 DAYS OR BY A FINE NOT TO EXCEED \$1000 OR BOTH*

Sec. 08.06.190. DEFINITIONS. In this chapter

(1) "acupuncture" means a form of healing developed from traditional Chinese medical concepts that uses the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions;

(2) "department" means the Department of Commerce and Economic Development;

(3) "practice of acupuncture" means the insertion of acupuncture needles and the application of moxibustion to specific

1 areas of the human body based upon acupuncture diagnosis; the practice
 2 of acupuncture includes adjunctive therapies involving mechanical,
 3 thermal, electrical, and electromagnetic treatment and the recommenda-
 4 tion of dietary guidelines and therapeutic exercise.

5 * Sec. 3. AS 08.01.010 ^{→ "APPLICABILITY OF CHAPTER"} is amended by adding a new paragraph to read:

6 (28) regulation of acupuncture under AS 08.06.

7 * Sec. 4. AS 08.01.050(a)(4) ^{ADMINISTRATIVE DUTIES OF THE DEPT.} is amended to read:

8 (4) notify applicants of acceptance or rejection as de-
 9 termined by the board or as determined by the department under AS 08.-
 10 06 for acupuncturists. under AS 08.11 for audiologists, under AS 08.40
 11 for electrical administrators, under AS 08.45 for naturopaths, or
 12 under AS 08.55 for hearing aid dealers;

13 * Sec. 5. AS 08.01.050(a)(9) ^{ADMINISTRATIVE DUTIES OF THE DEPT.} is amended to read:

14 (9) issue licenses or temporary licenses as authorized by
 15 the board or as authorized by the department under AS 08.06 for acu-
 16 puncturists. under AS 08.11 for audiologists, under AS 08.40 for
 17 electrical administrators, under AS 08.45 for naturopaths, or under
 18 AS 08.55 for hearing aid dealers;

19 * Sec. 6. AS 08.02.010(a) ^{PROFESSIONAL DESIGNATION REQUIREMENTS} is amended to read:

20 (a) An acupuncturist licensed under AS 08.06, an audiologist
 21 licensed under AS 08.11, a person licensed in the state as a chiro-
 22 practor under AS 08.20, a dentist under AS 08.36, a medical practi-
 23 tioner or osteopath under AS 08.64, a registered nurse under AS 08.68,
 24 an optometrist under AS 08.72, a registered pharmacist under AS 08.80,
 25 a registered physical therapist or occupational therapist under
 26 AS 08.84, or a psychologist under AS 08.86, shall use as professional
 27 identification appropriate letters or a title after that person's name
 28 which represents that person's specific field of practice. The
 29 letters or title shall appear on all signs, stationery, or other

1 advertising in which the person offers or displays personal profes-
 2 sional services to the public. In addition, a person engaged in the
 3 practice of medicine or osteopathy as defined in AS 08.64.380, or a
 4 person engaged in any manner in the healing arts who diagnoses,
 5 treats, tests, or counsels other persons in relation to human health
 6 or disease and uses the letters "M.D." or the title "doctor" or "phy-
 7 sician" or another title that tends to show that the person is willing
 8 or qualified to diagnose, treat, test, or counsel another person,
 9 shall clarify the letters or title by adding the appropriate special-
 10 ist designation, if any, such as "dermatologist", "radiologist",
 11 "audiologist", "naturopath", or the like.

12 * Sec. 7. AS 08.36^{DENTISTRY} is amended by adding a new section to read:

13 Sec. 08.36.115. QUALIFICATIONS FOR ACUPUNCTURE APPLICANTS. An
 14 applicant for a license to perform acupuncture in the regular practice
 15 of dentistry shall satisfy the requirements of AS 08.36.100 and those
 16 requirements of experience or education in the practice of acupuncture
 17 as may be adopted by the board.

18 * Sec. 8. AS 08.64.170(a)^{LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY} is amended to read:

19 (a) A person may not practice medicine, podiatry, or osteopathy
 20 [, OR ACUPUNCTURE] in the state unless the person is licensed under
 21 this chapter, except that

22 (1) a physician assistant may examine, diagnose, or treat
 23 persons under the supervision, control, and responsibility of either a
 24 physician licensed under this chapter or a physician exempted from
 25 licensing under AS 08.64.370;

26 (2) a physician-trained mobile intensive care paramedic may
 27 render emergency lifesaving service; and

28 (3) [A PERSON LICENSED UNDER AS 08.36 MAY PERFORM
 29 ACUPUNCTURE IN THE REGULAR PRACTICE OF DENTISTRY, SUBJECT TO THE

REGULATIONS OF THE BOARD OF DENTAL EXAMINERS; AND

(4)] a person who is licensed or authorized under another chapter of this title may engage in a practice that is authorized under that chapter.

* Sec. 9. AS 08.64.180 is amended to read:

Sec. 08.64.180. APPLICATION FOR LICENSE. A person who desires to practice medicine or [,] osteopathy [OR ACUPUNCTURE] in the state shall apply in writing to the department for a license.

* Sec. 10. AS 09.55.560(1) is amended to read: ^{CODE OF CIVIL PROCEDURE} DEFINITIONS

(1) "health care provider" means an acupuncturist licensed under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; a corporate entity covered under AS 21.88.050(b)(11); and an employee of a health care provider acting within the course and scope of employment;

* Sec. 11. AS 18.23.070(3) is amended to read: ^{HEALTH SAFETY - DEFINITIONS}

(3) "health care provider" means an acupuncturist licensed under AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist or occupational thera-

1 pist licensed under AS 08.84; a physician licensed under AS 08.64; a
 2 podiatrist; a psychologist and a psychological associate licensed
 3 under AS 08.86; and a hospital as defined in AS 18.20.130, including a
 4 governmentally owned or operated hospital; a corporate entity covered
 5 under AS 21.88.050(b)(1); and an employee of a health care provider
 6 acting within the course and scope of employment;

7 * Sec. 12. AS 21.36.090(d) is amended to read: *INSURANCE - TRADE PRACTICES AND FRAUD - UNFAIR DISCRIMINATION*

8 (d) A person may not practice or permit unfair discrimination
 9 against a person who provides a service covered under a group disabili-
 10 ty policy that extends coverage on an expense incurred basis, or
 11 under a group service or indemnity type contract issued by a nonprofit
 12 corporation, if the service is within the scope of the provider's
 13 occupational license. In this subsection, "provider" means a state
 14 licensed physician, dentist, osteopath, optometrist, acupuncturist,
 15 chiropractor, nurse midwife, naturopath, physical therapist, or occu-
 16 pational therapist.

17 * Sec. 13. AS 21.88.900(9) is amended to read: *INSURANCE - GENERAL PROVISIONS - DEFINITIONS*

18 (9) "health care provider" means an acupuncturist licensed
 19 under AS 08.06; an audiologist licensed under AS 08.11; a chiropractor
 20 licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
 21 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
 22 dispensing optician licensed under AS 08.71; an optometrist licensed
 23 under AS 08.72; a pharmacist licensed under AS 08.80; a physical
 24 therapist or occupational therapist licensed under AS 08.84; a physi-
 25 cian licensed under AS 08.64; a podiatrist; a psychologist and a
 26 psychological associate licensed under AS 08.86; a hospital as defined
 27 in AS 18.20.130, including a governmentally owned or operated hospi-
 28 tal; a corporate entity covered under AS 21.88.050(b)(11); an employee
 29 of a health care provider acting within the course and scope of em-

ployment;

* Sec. 14. AS 21.88.900 is amended by adding a new paragraph to read:

(18) "acupuncturist" means a person licensed under AS 08.06.

* Sec. 15. AS 47.17.070(9) is amended to read:

(9) "practitioner of the healing arts" includes acupuncturists, chiropractors, dental hygienists, dentists, health aides, nurses, nurse practitioners, occupational therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55, religious healing practitioners, and surgeons;

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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FEB 22 1988

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

February 22, 1988

SUBJECT: Section-by-section Summary SB 405, an Act relating to the practice of acupuncture

TO: Senator Mitchell Abood

FROM: George Utermohle *GU*
Legislative Counsel

*SB 405 (LUC)
To Board
Acupuncture
LUC*

This memorandum contains a section-by-section summary of SB 405, an Act relating to the practice of acupuncture.

A section-by-section summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill states the purpose of the bill.

Section 2 of the bill amends AS 08 by adding a new chapter relating to the practice of acupuncture.

Sec. 08.06.010 provides for the creation and membership of the Board of Acupuncture. The board consists of five members: three licensed acupuncturists, a licensed physician, and a public member. The board members shall elect a chair for a term of one year.

Sec. 08.06.020 provides that the board shall hold at least two meetings each year and may hold additional meetings.

Sec. 08.06.030 prescribes the duties of the board. The board shall issue licenses to practice acupuncture, impose disciplinary sanctions upon licensee as necessary, prepare an annual report, and adopt regulations for standards of practice, continuing education, and a code of ethics.

Sec. 08.06.050 prohibits the practice of acupuncture without a license.

Sec. 08.06.060 provides that a person shall apply to the department for a license to practice acupuncture.

Sec. 08.06.070 provides for the licensing of qualified persons as acupuncturists. The necessary qualifications are set out. A licensed acupuncturist shall display the license in a conspicuous place where the licensee practices.

Sec. 08.06.080 provides the conditions that must be satisfied for renewal of the license.

Sec. 08.06.090 provides that persons who practice acupuncture shall inform clients that they are trained in the practice of acupuncture. If a licensee does not carry malpractice insurance, the licensee shall inform each client of that fact.

Sec. 08.06.100 sets out the limitations on the practice of a licensee. A licensee may not prescribe prescription drugs, controlled substances, or poisons, engage in surgery, or use the title of physician.

Sec. 08.06.120 sets out the grounds on which a licensee may be disciplined.

Sec. 08.06.130 provides that a health care insurance policy shall include coverage for acupuncture services by a licensed acupuncturist if it covers acupuncture services provided by a dentist or physician.

Sec. 08.06.150 provides that a person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a class B misdemeanor and punishable by imprisonment for 90 days or by a fine not to exceed \$1,000 or by both.

Sec. 08.06.190 defines the terms: "acupuncture," "board," "department," and "practice of acupuncture".

Section 3 of the bill amends AS 08.01.010 by adding the Board of Acupuncture to the list of boards subject to the centralized licensing provisions of AS 08.01.

Section 4 of the bill amends AS 08.02.010(a) by adding acupuncturists to the list of professionals that must use appropriate titles and letters after the person's name.

Section 5 of the bill amends AS 08.03.010(c) by adding the Board of Acupuncture to the list of agencies subject to sunset review. The board is subject to sunset review in 1992.

Section 6 of the amends AS 08.36 by providing that the Board of Dental Examiners shall prescribe conditions for the practice of acupuncture as part of the practice of dentistry.

Section 7 of the bill amends AS 08.64.170(a) by deleting the requirement that all acupuncturists in the state be a licensed physician or licensed dentist.

Section 8 of the bill amends AS 08.64.180 by deleting the reference to acupuncture in order to conform with Section 7 of the bill.

Section 9 of the bill amends AS 09.55.560(i) by including licensed acupuncturists within the definition of "health care provider" for the purposes of litigation of medical malpractice claims.

Section 10 of the bill amends AS 18.23.070(3) by including licensed acupuncturists within the definition of "health care provider" for the purposes of investigations by health care review organizations.

Section 11 of the bill amends AS 21.36.090(d) by including acupuncturists within the group of health care professional that may not be discriminated against by certain insurance companies.

Section 12 of the bill amends AS 21.88.900(9) by including licensed acupuncturists within the definition of "health care provider" for the purposes of professional malpractice insurance.

Section 13 of the bill amends AS 21.88.900 by adding a definition of acupuncturist.

Section 14 of the bill amends AS 47.17.070(9) by including acupuncturists within the definition of "practitioner of the healing arts" for the purpose of reporting child abuse.

Section 15 of the bill provides that the initial acupuncturist appointees to the Board of Acupuncture need only to be qualified to receive a license and need not hold a license at the time of appointment.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

S. HESS April 6, 1988 3:30 pm

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

S. HESS April 6, 1988 3:30 pm

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SB 405: An Act relating to the practice of acupuncture

The bill establishes a Board of Acupuncture composed of five members to regulate and license qualified individuals. The board meets twice each year to conduct their business. Currently, only licensed medical doctors are allowed to practice acupuncture in this State. The bill changes the current practice to allow individuals who meet the licensing requirements in Section 08.06.070 of the new bill to become licensed and offer their services.

According to information obtained, there are 22 states in addition to Alaska which provide for licensing, registration or certification of acupuncture. Alaska is currently the only state in which the practice is required to be performed by a licensed medical doctor. In some states, however, practitioners are allowed to perform acupuncture only under the supervision of a medical doctor. At this time, the number of physicians presently in Alaska who could seek licensure under this bill or whose practice would be affected by the bill is not known precisely; however, it appears that there are currently two (2) licensed physicians who practice acupuncture in Alaska and another doctor who is retired, or semiretired who did practice acupuncture.

SB 405 may increase the health care services available to consumers by allowing qualified individuals to practice acupuncture. However, the department is not presently aware of any public concern for the currently licensed acupuncturists, nor are we aware of a substantially unmet public demand for acupuncture services. The department, therefore, questions the need for a board to regulate the occupation and suggests that licensing could be more cost-effectively administered by department staff without a board. The Division of Occupational Licensing currently regulates eight occupations without boards and believes, until we are more sure of the numbers to be licensed, that the board would be overly expensive.

In summary, the department does not oppose the licensing of acupuncture and only raises a concern regarding the creation of a board to regulate a profession that may have very few licensed professionals.

J. Anthony Smith

J. Anthony Smith, Commissioner
Department of Commerce and
Economic Development

Date: 2/29/88

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FEB 29 1988



NATIONAL COMMISSION FOR THE CERTIFICATION OF ACUPUNCTURISTS
1424 16th Street N.W., Suite 105 • Washington, D.C. 20036 • (202) 232-1404

STATES AND PROVINCES USING NCCA®
STANDARDS FOR LICENSURE/REGISTRATION

Florida	NCCA Comprehensive Examination and CNT Course used as basis for licensure
Hawaii	NCCA Comprehensive Examination used as basis for licensure.
Maine	NCCA certification accepted as a basis for licensure.
Maryland	NCCA certification accepted as a basis for registration.
Montana	NCCA Comprehensive Examination used as a basis for licensure, effective October 1, 1987.
New Jersey	NCCA Comprehensive Examination used as basis for licensure, along with oral and practical developed by New Jersey.
New Mexico	NCCA Comprehensive Examination used as basis for licensure.
New York	Accepts passing of NCCA Comprehensive Examination in lieu of license from another state or country as one of three criteria for licensure.
Oregon	NCCA Comprehensive Examination and CNT Course used as basis for licensure along with practical developed by Oregon.

Chairman
Suzanne Kitchin
C.A., O.M.D., Dipl. Ac. (NCCA)
San Anselmo, California

Vice Chairman
William Muller
M.Ac. (U.S.), Dipl. Ac. (NCCA)
Cambridge, Massachusetts

Secretary
Su Ling Fu
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San Mateo, California

Mark Senn
Ph.D., D.Ac. (Canada)
New York, New York

James Turner
LL.D.
Washington, D.C.

Grace Wong
C.A., O.M.D., Dipl. Ac. (NCCA)
Bethesda, Maryland

Pennsylvania	NCCA certification accepted as basis for registration.
Quebec	NCCA Comprehensive Examination accepted as basis for licensure along with practical developed by Quebec.
Utah	NCCA Certification used as basis for licensure.

Additional Government Units Actively
Considering Implementation of NCCA Standards

Massachusetts
Rhode Island
Washington, D.C.

*For further information contact the appropriate state regulatory agency.

ACUPUNCTURE LICENSING SUMMARY SHEET

A. States with license acupuncturists as independent practitioners:

California	New Mexico
Florida	New Jersey
Hawaii	New York
Montana	Oregon
Nevada	Rhode Island
	Washington

B. States which allow acupuncturists to practice under supervision:

Connecticut	Massachusetts
Delaware	Tennessee
Washington, D.C.	Texas
Louisiana	Utah
Maryland	Wisconsin

C. States in which acupuncture is considered the practice of medicine and is restricted to physicians:

Alabama	Mississippi
Alaska	Missouri
Arkansas	Nebraska
Colorado*	N. Hampshire
Georgia	N. Carolina
Idaho	N. Dakota
Illinois	Ohio
Indiana	Pennsylvania
Iowa	S. Dakota
Kansas	Vermont
Kentucky	Virginia
Maine*	W. Virginia
Michigan	Wyoming

*in practice many acupuncturists in Colorado and Maine work under the supervision of physicians.

D. States which do not fit into any of the three categories:

Arizona	Oklahoma
Minnesota	South Carolina

MD Acupuncturists

Physicians are licensed to practice any form of medicine, including acupuncture. However, the following states require physicians to take continuing education or pass a test before

Page Two

they can practice acupuncture: California, New York, Virginia, Nevada, Montana, Louisiana, Maryland. For exact state requirements contact the appropriate State Board of Medical Examiners.

Please note that state laws are subject to change. Therefore you may wish to contact your state Board of Medical Examiners (or appropriate governing body) to determine whether legislative or regulatory status has changed.

NATIONAL CERTIFICATION OF ACUPUNCTURISTS

**A HANDBOOK
1987**

Prepared By

**National Commission for the Certification
of Acupuncturists**

**1424 16th Street, N.W.
Suite 105
Washington, D.C. 20036**

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I.

NATIONAL CERTIFICATION OF ACUPUNCTURISTS

Defining American Acupuncture

The ancient art of acupuncture was introduced in America some 100 years ago, where for many years it was practiced in the privacy of ethnic communities. However, over the last two decades acupuncture has gained rapidly in public acceptance, with many states now licensing professional acupuncturists. The launching of a national certification process by the National Commission for the Certification of Acupuncturists in March 1985 has helped accelerate this trend, representing a major step in the development of the profession in the United States.

The National Commission for the Certification of Acupuncturists (NCCA) was organized to promote nationally recognized standards of excellence to ensure public safety. The NCCA certificate testifies that an individual has been recognized by his or her peers to have the knowledge and skills necessary for safe and effective acupuncture practice.

Eight commissioners are appointed by two national acupuncture organizations: The National Council of Acupuncture Schools and Colleges (NCASC); and the American Association of Acupuncture and Oriental Medicine (AAAOM) providing equal representation of practitioners and educators. A ninth commissioner representing consumers is selected by the eight other commissioners.

NCCA has followed the guidelines of the National Commission for Health Certifying Agencies (NCHCA) the governmentally recognized authority on professional certification, and NCCA is assisted in its examination development and administration by the Professional Examination Service (PES). The expertise and policies of these two groups has contributed to NCCA's development of a fair, valid and reliable certification process that gives full recognition to the diversity of acupuncture in America while also providing a unified set of national standards for safe and effective acupuncture practice.

II.

EARNING THE NCCA CERTIFICATE

Eligible candidates can earn NCCA certification by fulfilling three requirements:

1. Passing the written examination; and
2. Qualifying in clinical procedure by successfully completing the NCCA Clean Needle Technique Course, and passing its written and practical examination; and

3. Subscribing to the National Code of Ethics for acupuncturists (See page 10 of this Handbook and 4b of the Application.)

Eligibility to take the examination is based on education, experience or state licensure. Forty (40) points of credit for education, experience or licensure are required. The point system is described in detail in Section VII.

III.

THE MEANING OF NCCA CERTIFICATION

- The NCCA certificate is a public statement by your peers that you are recognized to have the knowledge and skills necessary for safe and effective acupuncture practice, based on nationally recognized professional standards established by a special Blue Ribbon Panel of expert acupuncturists.
- The certificate is a public statement that you have

subscribed to the national professional Code of Ethics.

- You will be entitled to designate yourself as "Diplomate in Acupuncture of the National Commission for the Certification of Acupuncturists," abbreviated as "Dipl. Ac. (NCCA)," or "National Board Certified (NCCA)."